

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**MICHAEL R. STEINWAY and
PEGGY A. STEINWAY and
DAVID W. CROWELL,**

Plaintiffs,

v.

THE VILLAGE OF PONTOON BEACH, et al.,

Defendants.

Case No. 06-cv-1043-DRH

ORDER

HERNDON, Chief Judge:

On August 27, 2008, the Court entered an Order (Doc. 72) which stayed this case pending the outcome of plaintiff Peggy Steinway's underlying state criminal proceedings. The Order also directed Plaintiffs to file a Status Memorandum every 60 days, informing the Court of the status of her state court proceedings. On February 13, 2009, Plaintiffs filed their Third Status Report (Doc. 78). In this Report, Plaintiffs state that Peggy Steinway's two misdemeanor complaints filed in the Circuit Court for the Third Judicial Circuit of Illinois have been resolved as follows: (1) a plea of GUILTY as to case 06-cv-400020 "Obstructing a Police Officer," as AMENDED to a charge of "Disorderly Conduct," pursuant to **720 ILL. COMP. STAT. 5/26-1(A)(1)**, with a payment of \$100 in fines and costs; and (2) case 06-cv-40021 "Resisting a Peace Officer" was DISMISSED WITH PREJUDICE. Because plaintiff Peggy Steinway's underlying state criminal proceedings have been resolved, the Court

hereby **LIFTS THE STAY** in this case.

Further, in their Report, Plaintiffs consent to the dismissal of the following claims: as to Count 4, Plaintiffs consent to dismissal of Peggy Steinway's claims of unlawful arrest and false imprisonment against defendants Simmons and Abel; as to Count 6, Plaintiffs consent to dismissal of Peggy Steinway's claims of unlawful arrest and false imprisonment against all Defendants (this constitutes a dismissal of Count 6 in its entirety). Pursuant to Plaintiff's consent, the above-described claims are hereby **DISMISSED WITH PREJUDICE**. The remaining claims in this case are as follows:

Count 1 - plaintiff Michael Steinway's § 1983 civil rights claim for use of excessive force against defendants Simmons and Able, only;

Count 2 - plaintiff Michael Steinway's Illinois law claim for assault and battery against all Defendants;

Count 4 - plaintiff Peggy Steinway's § 1983 civil rights claim for unlawful use of excessive force in violation of the Fourth, Fifth and Fourteenth Amendments, against defendants Simmons and Able, only;¹

Count 5 - plaintiff Peggy Steinway's Illinois law claim for assault and battery against all Defendants;

Count 7 - plaintiff David Crowell's Illinois law claim for assault and battery against all Defendants; and

Count 8 - plaintiff David Crowell's Illinois law claim for unlawful restraint and/or false arrest and false imprisonment against all Defendants.

¹ In the Court's July 9, 2008 Order, summary judgment was granted in favor of defendant Chief Leuhman and Village of Pontoon Beach as to Plaintiffs' § 1983 claims in Counts 1 & 4 (Doc. 70, pp. 14, 16).

Lastly, because this case is no longer stayed, the Court hereby sets the
FINAL PRETRIAL CONFERENCE for **Friday, April 3, 2009 at 2:30 p.m.**

IT IS SO ORDERED.

Signed this 18th day of February, 2009.

/s/ David R. Herndon

Chief Judge
United States District Court